



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC - 9 2014

OFFICE OF
GENERAL COUNSEL

Christopher Horner
Senior Fellow
Competitive Enterprise Institute
1899 L Street, NW, 12th Floor
Washington, D.C. 20036

Re: Freedom of Information Act Request No. EPA-HQ-2014-006434

Dear Mr. Horner:

I am writing in regard to your FOIA request, EPA-HQ-2014-006434, seeking certain records sent to or from employees in the Office of General Counsel ("OGC") that refer or relate to Gina McCarthy and text messaging, as described by your May 13, 2014 request.

By letter dated June 12, 2014, OGC notified you that it had collected records responsive to your request, and intended to comply with your request for records by releasing non-exempt, responsive portions of records and withholding other records or portions of records under 5 U.S.C. §552(b)(5) & (6). OGC then made a series of interim productions to you. OGC has finished its search and review of documents responsive to your request. By this letter I am providing the final production of documents responsive to your request, as well as an index of documents withheld in full under at least one of the above-cited exemptions. My office was not able to de-duplicate the group of documents withheld in full. Therefore, the included index lists approximately 450 individual emails, many of which are exact or near duplicates so the total number of actual documents withheld in full is fewer than 450.

Portions of the attached documents have been withheld under 5 U.S.C. §552(b)(5), the Deliberative Process Privilege, the Attorney Client Privilege, and the Attorney Work Product Privilege. The withheld portions of these documents are predecisional and deliberative and would harm agency decision making if released, are confidential communications between an agency attorney and client concerning legal advice and/or are documents prepared by, or at the direction of, an attorney in contemplation of litigation. Portions of these documents have also been withheld under 5 U.S.C. §552(b)(6), Personal Privacy. These portions of documents contain personal information which would be an unwarranted invasion of personal privacy if released.

This letter concludes our response to your request. You may appeal this response to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only), FAX: (202) 566-2147, E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service, or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20001. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the tracking number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "**Freedom of Information Act Appeal**."

Thank you for your continued patience as my office completed the processing of the records you requested. Please contact Lynn Kelly of my staff at 202-564-3266 or via email at kelly.lynn@epa.gov if you have any questions concerning this response.

Sincerely,

A handwritten signature in cursive script, appearing to read 'W. Blake' or similar, with a stylized 'F-R' below it.

Wendy Blake
Acting Associate General Counsel
General Law Office
Office of General Counsel

Enclosures:
December 9 Release, Part 5
Index of Documents Withheld in Full